

Feb. 1. 2017 11:17AM

No. 5031 P. 2

SUMMONS

IN THE CIRCUIT COURT OF MASON COUNTY, WEST VIRGINIA

CHRISTOPHER O'DELL,

PLAINTIFF,

V.

CIVIL ACTION NO. 17-C-10

**USAA FEDERAL SAVINGS BANK aka
USAA,**

DEFENDANT.

IN THE NAME OF THE STATE OF WEST VIRGINIA:

You are hereby summoned and required to serve upon

**Matthew Stapleton, Esquire
of the Law Firm of
STAPLETON LAW OFFICES
Attorneys and Counselors at Law**

Plaintiff's attorney, whose address is:

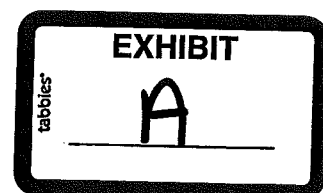
**400 Fifth Avenue
Huntington, WV 25701
(304) 529-1130**

an answer, including any related counterclaim or defense you may have, to the complaint filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days, after service of this summons upon you, exclusive of the day of service. If you fail to do so, thereafter, judgement, upon proper hearing and trial, may be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim, cross complaint or defense you may have, which must be asserted in the above styled action.

Date: January 23, 2017

Brian Wickham
Clerk of the Court

By: J. J. Caudwell
Deputy



Feb. 1. 2017 11:17AM

No. 5031 P. 3

**CIVIL CASE INFORMATION STATEMENT-CIVIL CASES
IN THE CIRCUIT COURT, MASON COUNTY, WEST VIRGINIA**

I. CASE STYLE:

Case # _____

Plaintiff(s)

CHRISTOPHER O'DELL,**PLAINTIFF,****V,****CIVIL ACTION NO. 17-2-10****USAA FEDERAL SAVINGS BANK aka****USAA,****DEFENDANT.**

Phone #: _____

Days to Answer: _____ Type of Service: _____

Social Security #: _____

30 Secy. State

Original and multiple copies of Complaint furnished herewith.

II. TYPE OF CASE:**TORTS****OTHER****CIVIL**☐ Asbestos☐ Adoption☐ Appeal from Mag Ct☐ Prof. Malpractice☐ Contract☐ Pet Mod Mag Sent☐ Personal Injury☐ Real Property☐ Misc Civil☐ Product Liability☐ Mental Health☒ Other☐ Other Tort☐ Admin Agency Appeal**III. JURY DEMAND: X YES ___ NO.****CASE WILL BE READY FOR TRIAL BY 6/18****III. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? ___ YES****X NO IF YES, PLEASE SPECIFY:**☐ Wheelchair accessible hearing room or other (as needed)☐ Interpreter or other auxiliary aid for the hearing impaired☐ Reader or other auxiliary aid for the visually impaired☐ Spokesperson or other auxiliary aid for the speech impaired☐ Other

Attorney Name: Matthew P. Stapleton

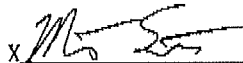
Firm: Stapleton Law Offices, L.C.

Address: 400 5th Avenue, Huntington, WV 25701

Telephone: (304) 529-1130

Representing:

☒ Plaintiff ___ Defendant☐ Cross-Complainant ___ Cross-Def.

x 

Counsel for Plaintiff

Dated: January 20, 2017

Feb. 1. 2017 11:18AM

No. 5031 P. 4

IN THE CIRCUIT COURT OF MASON COUNTY, WEST VIRGINIA

CHRISTOPHER O'DELL,

PLAINTIFF,

V.

CIVIL ACTION NO. 17-C-10USAA FEDERAL SAVINGS BANK aka
USAA,

DEFENDANT.

COMPLAINT

COMES NOW the Plaintiff, Christopher O'Dell, by and through counsel, Matthew Stapleton and Stapleton Law Offices, and hereby states the following for his Complaint:

PARTIES

1. The Plaintiff is a resident of West Virginia.
2. The Plaintiff is a person protected by the West Virginia Consumer Credit and Protection Act (the WVCCPA) and, thus, are entitled to its remedies.
3. The Defendant, USAA Federal Savings Bank ("USAA"), is a corporation and conducts business in West Virginia.

FACTS

4. USAA, is a debt collector as defined by West Virginia Code Sec. 46A-2-122(d) engaging the debt collection as defined by West Virginia Code Sec. 46A-2-122(c), and is otherwise subject to the WVCCPA.
5. Once the Plaintiff fell into arrears upon an alleged indebtedness owed by Plaintiff to the Defendant, the Defendant began to attempt to collect from the Plaintiff by placing telephone calls to the Plaintiff, and did in fact communicate with the Plaintiff to collect the debt.

Feb. 1. 2017 11:18AM

No. 5031 P. 5

6. In addition to written communication, the Plaintiff began receiving multiple telephone calls from the defendant.
7. As a result of the high volume of collection activities by Defendant Plaintiff retained legal counsel on or around November of 2012, to represent his interest in relation to this alleged debt.
8. During the first telephone call, which call occurred on or around January 21, 2013, following the retention of counsel relating to the debt with the Defendant, the Plaintiff informed the Defendant he was represented by an attorney and to not contact him anymore and gave the Defendant's representatives the attorney's name and contact information for the attorney.
9. Following this notification of representation, the Defendant continued to attempt to collect on the alleged debt by placing telephone calls to the Plaintiff, placing calls to telephone numbers associated with the Plaintiff, written communication, and other forms of communication. These contacts were on an almost daily basis and often multiple times a day.
10. The repeated nature of Defendant's collection attempts caused the Plaintiff to endure stress and anxiety on a daily basis. Additionally, the Plaintiff not only endured the annoyance, worry, and aggravation at the time of the collection attempts, but also at many other times as it was constantly fresh on his mind due to the high volume of collection attempts.

Feb. 1. 2017 11:18AM

No. 5031 P. 6

COUNT I

**VIOLATING THE WEST VIRGINIA CONSUMER
CREDIT AND PROTECTION ACT**

11. Plaintiff incorporates the previous paragraphs as if fully set forth here.
12. The Defendant has repeatedly violated the West Virginia Consumer Credit and Protection Act including, but not limited to,
 - a. using unfair or unconscionable means to collect a debt from the Plaintiff in direct violation of West Virginia Code Sec 46A-2-128(e) by communicating with the Plaintiff after the Defendant knew the Plaintiff was represented by an attorney and the attorney's name, telephone number, and location were known by the Defendant;
 - b. engaging in unreasonable, oppressive, or abusive conduct toward the Plaintiff by placing an enormous amount of telephone calls to the Plaintiff in an attempt to collect a debt in violation of West Virginia Code Sec. 46A-2-125;
 - c. causing the Plaintiff's phone to ring or engaging persons, including the Plaintiff, in telephone conversations repeatedly or continuously, with the intent to annoy, abuse, or oppress the Plaintiff in violation of West Virginia Code Sec. 46A-2-125(d).
13. As a direct result of the Defendant's actions and conduct, the Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, threatened, and was otherwise caused indignation and distress.

Feb. 1. 2017 11:18AM

No. 5031 P. 7

COUNT II

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

14. Plaintiff incorporates the previous paragraphs as if fully set forth here.
15. Defendant's conduct was so egregious and extreme that it exceeded the bounds of decency including, but not limited to:
 - a. Defendant placed a high volume of calls to the Plaintiff's home directly in violation of the WVCCPA;
 - b. Defendant continued to contact the Plaintiff while knowing he was represented by an attorney, directly in violation of the WVCCPA;
 - c. Defendant caused the Plaintiff to endure consistent stress, aggravation, and annoyance due to the pattern of calls by Defendant;
 - d. The Defendant has intentionally adopted policies and procedures without regard to West Virginia law and that violate West Virginia law;
 - d. Defendant has intentionally adopted policies and procedures which have the effect of inflicting emotional distress upon consumers to coerce them to pay money to the Defendant;
16. As a direct result of Defendant's conduct, the Plaintiff has suffered significant emotional distress.
17. As a direct result of the Defendant's action and conduct, Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, threatened, and was otherwise caused indignation and distress.

Feb. 1. 2017 11:18AM

No. 5031 P. 8

COUNT III

COMMON LAW INVASION OF PRIVACY

18. Plaintiff incorporates the previous paragraphs as if fully set forth here.
19. Plaintiff, like all citizens, has an expectation of privacy which includes the right to be free from harassing and annoying telephone calls.
20. Defendant's conduct of placing extreme amounts of telephone calls to the Plaintiff's home invaded, damaged, and harmed the Plaintiff's right of privacy.
21. As a direct result of the conduct of the Defendant, the Plaintiff has suffered emotional distress.
22. As a direct result of the Defendant's action and conduct, Plaintiff has been annoyed, inconvenienced, harassed, bothered, upset, threatened, and was otherwise caused indignation and distress.

DEMAND FOR RELIEF

Plaintiff demands the Defendant pay the following:

- A. Actual damages for annoyance, inconvenience, distress, bother, anxiety, and the Defendant's repeated violations of the WVCCPA for all such violations up to the time this complaint was filed.
- B. Statutory damages in the maximum allowed by West Virginia Code Sec. 46A-5-101(1) as adjusted for inflation pursuant to West Virginia Code Sec. 46A-5-106 for all such violations up to the time this complaint was filed.
- C. Pursuant to West Virginia Code Sec. 46A-5-104, Plaintiff's cost of litigation including, but not limited to, attorney fees and court costs.
- D. General damages for the Defendant's negligence alleged in Count II and Count III

Feb. 1. 2017 11:18AM

No. 5031 P. 9

of this complaint.

- E. Punitive damages for the Defendant's conduct alleged in Count II and Count III of this complaint.
- F. Any other relief the Court shall deem proper under the circumstances.

CHRISTOPHER O'DELL
By Counsel



Matthew P. Stapleton (WVSB #12334)
Scott G. Stapleton (WVSB #3568)
STAPLETON LAW OFFICES
400 5th Avenue
Huntington, WV 25701
(304) 529-1130

FILED
MAR 2 2017
CLERK OF COURT